THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.18639 OF 2007

DATED: 03-09-2007

BETWEEN

K. Kalu Ram, s/o. K. Padmaiah,
Occ: Business, R/o.8-2-83/3,
L B Nagar, Ranga Reddy District
And another.

...PETITIONERS

AND

The Mandal Revenue Officer,
Maheshwaram Mandal,
Ranga Reddy District and others.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioners as well as the learned GP appearing for the respondents 1 and 2.

2. Petitioners submit that they are the owners and possessors of the land in an extent of Ac.5.08 guntas in Sy.No.58 and an extent of Ac.5.17 guntas in Sy.No.53/AA situated at Tummalur Village, Maheshwaram Mandal, Ranga Reddy, having purchased the same by way of registered sale deed dated 24.10.1994. They further submit that after the purchase of the said lands, their names were mutated in the revenue records in 1995. They further submit that they have purchased the said lands from one Smt. Aalu Bai and whereas the third respondent claims to have purchased the said lands from the protected tenants claiming to be 38-E certificate holders. Accordingly on an application filed by the third respondent claming right title over the said

property, the Tahsildar Mandal Revenue Officer, Maheshwaram Mandal came to the opinion that 38-E certificate holders are only having right of alienation of the said lands in Sy.Nos.53 and 58 but not by the pattedar or his successors and the names of 38-E holders have been deleted from the pahani 1982-83 though they have not alienated to anybody. Accordingly, the lands sold by the pattedar and the subsequent vendor is irregular and thus, cancelled the pattedar pass books/title deeds issued in favour of the petitioners herein by proceedings No.D/742/07 dated 12.07.2007.

3. The said orders are traceable to the powers of the first respondent to pass such orders under Section 3(3) of the Andhra Pradesh Rights in Land and Pattedar Pass Books Act, 1971 (for short 'the Act'). Under Section 3(3) of the Act any person affected by an entry in such record of rights is entitled to apply for rectification of any entry, thus, the first respondent, after enquiry is entitled to take a decision on the application directing the rectification of the records.

If that be so, to such an order passed under Section 3(3) of the Act
a revision lies to the Joint Collector under Section 9 of the Act.

As against the said order of the first respondent either amending or refusing to amend the record of rights, an appeal lies under Section 5(5) of the Act to the Revenue Divisional Officer. In the instant case, as the first respondent passed an under Section 3(3) of the Act,
the petitioners have filed a revision under Section 9 of the Act.

As the revision has not been entertained, the petitioners filed WP.No.16833 of 2007 and this Court by order dated 13.08.2007 directed the Joint Collector, Ranga Reddy District, to dispose the interlocutory application. The second respondent instead of disposing the interlocutory application, by impugned Memo No.D5/4108/07 dated 17.08.2007 directed the petitioners to file an appeal before the RDO without entertaining the revision. In normal course an appeal lies, but against the order passed under Section 3(3) of the Act,
a revision lies to the Joint Collector under Section 9 of the Act. Therefore,

there is no justification on the part of the second respondent in directing the petitioners to file an appeal instead of entertaining the revision.

4. Having regard to the facts and circumstances of the case, the impugned memo dated 17.08.2007 is set aside and the second respondent is directed to entertain the revision and pass appropriate orders on the interlocutory application as directed by this Court in WP.No.16833 of 2007 dated 13.08.2007, without any undue delay within a period of two weeks from the date of receipt of a copy of this order. Till such orders are passed on the interlocutory application status quo with regard to the entries in the revenue records shall be maintained.

The writ petition is accordingly allowed. There shall be no order as to costs.

_____

V. ESWARAIAH, J

September 3, 2007
Note: Furnish C.C. of the order in two days
(**B/o**)
DSK